

## **JOB CREATION COMMITTEE**

**Will meet on  
Thursday, September 18, 2014  
at 10:00 a.m.  
at the Indiana Government Center-South  
402 West Washington Street, Room W064  
Indianapolis, Indiana 46204**

- I. CALL TO ORDER & ESTABLISHMENT OF QUORUM 10:00 A.M.**
- II. ADOPTION OF AGENDA**
- III. OPENING REMARKS & INTRODUCTION**
  - A. Chairman Nicholas Rhoad, Executive Director of the IPLA**
- IV. REPORT FROM THE BOARD OF ACCOUNTANCY**
  - A. Hannah Fichter, Board Director for the Board of Accountancy**
- V. REPORT FROM THE ATTORNEY GENERAL'S OFFICE ON CONSUMER COMPLAINTS**
  - A. Paul Schilling, Deputy Attorney General**
- VI. REPORT FROM THE INDIANA CPA SOCIETY**
  - A. Gary Bolinger, CAE, CEO and President**
- VII. CONCLUDING DISCUSSION BY THE COMMITTEE**
- VIII. ADJOURNMENT**

**NEXT SCHEDULED MEETING  
October 16, 2014  
Indiana Government Center-South  
402 West Washington Street, Room W064  
Indianapolis, Indiana 46204**

# **Job Creation Committee**

## **Minutes of the September 18, 2014 Meeting**

### **Call to Order & Establishment of Quorum**

The Job Creation Committee (JCC) meeting was called to order on Thursday, September 18, 2014 in Conference Room W064 at 10:00 a.m.

Richard Wilson motioned to establish quorum, Timothy Reed seconded. Motion carried by Nick Rhoad.

Committee members present:

- Nicholas Rhoad, Chairman
- Allen Pope
- Barbara Quandt
- Timothy Reed
- Richard Wilson
- John Wright

IPLA staff members present:

- Ben Evans
- Nicholas Goodwin

### **Adoption of Agenda**

The meeting agenda was reviewed and unanimously approved by committee members.

### **Opening Remarks & Introduction**

Chairman Rhoad introduced the meeting with opening remarks about the important role of the Professional Licensing Agency (PLA) in Indiana's workforce, as one of every seven working Hoosiers maintains a license through the PLA. Mr. Rhoad also briefly described the requirements and expectations of the Job Creation Committee as outlined by the General Assembly (found here: <http://www.in.gov/pla/3144.htm> )

### **Report from the Board of Accountancy**

Hannah Fichter, Board Director for the Board of Accountancy (BOA), presented a printed report to the committee regarding the functions, financials, and enforcement of the licenses overseen by the BOA. Information discussed in the presentation included information regarding:

- License Types
- License Functions
- Firm Permits
- Board of Accountancy: functions, establishment, role
- BOA Fiscal Responsibility: staffing, license costs, enforcement fund, servicing of licenses
- Explanation of various fees

Chairman Rhoad explained that the money collected from licensing fees goes to the state's general fund, and that the General Assembly considers the numerous licensing boards under the general umbrella of the PLA. Therefore, each licensing board has a set allocation for things such as enforcement and staffing regardless of the revenue volume from their specific licensing fees.

Col Wilson asked how Indiana's accounting licensing fees compare to other states, and Mr. Rhoad explained that most of the state's licensing fees are some of the lowest in the nation.

Col Wilson asked Ms. Fichter about the date of the licenses that are no longer issued, such as the Public Accountant (PA) and Accounting Practitioner (AP) licenses. He wanted to know if they are transferrable to a currently-issued license such as a CPA. Ms. Fichter answered that as the PA and AP licenses have much fewer education requirements, that they are not transferrable to a CPA license. Those individuals currently holding and renewing their PA and AP licenses can continue to do so until they are no longer in practice.

### **Report from the Attorney General's Office on Consumer Complaints**

Paul Schilling, Deputy Attorney General, presented to the committee about the roles of the BOA from the Attorney General's (AG) office. Their main focus is to investigate consumer complaints about professional licenses, prosecute, and advise. The presentation included the following topics:

- Licensing Enforcement: filing cease & desist orders for those in violation
- Consumer Complaint process: average resolution time is five months
- Litigation process: details about settlement conferences, actions taken against license determined by the BOA
- Sanctions: revocation, suspension, probation, public censure, or civil penalties
- Consumer Complaints by the numbers: 16 open files so far in 2014, only 4 cases resulted in administrative action in 2013
- Types of consumer files: most common complaints are unlicensed practice, discipline in another jurisdiction, professional incompetence, criminal conviction, and advertising
- Administrative Cases by the numbers: only four of the 29 complaints received in 2013 resulted in administrative action and two resulted in cease & desist.

Col Wilson asked about the underutilization of public censures as a sanction. He asked why it isn't removed as an option. Mr. Schilling responded that removing it as an option would require a change in the law by the General Assembly.

Chairman Rhoad asked how many PLA consumer complaints the AG's office sees on an annual basis. Mr. Schilling responded that of the 3-4,000 complaints that they receive, most are unfounded. Mr. Rhoad asked if complaints are processed on a "first come, first serve" basis, or if special priority is given to certain complaints. Mr. Schilling explained that specific complaints go to certain investigators who specialize in that area of licensure. Mr. Schilling elaborated that most accountancy complaints are averaging a time frame of five months from initial complaint to an attorney review. In cases that require further adjudication, the timeframe to reach a full resolution including hearings and judgments is averaging closer to 18 months.

Allen Pope clarified that priority is generally not placed on one professional over another, and complaints are processed as they arrive. However, within each professional licensing area, some prioritization can occur related to number of employees who can handle that certain professional license. Also, if the issue presents a more immediate threat, it will get tend to get more attention and result in swifter actions such as immediate suspension of the license by the BOA.

Col Wilson asked about if a case that is settled during the investigation process and no sanctions are issued, does the case still show up on the licensee's record. Mr. Schilling explained that if a case is settled or resolved in the investigation process, it will not show up on public record. Only if the case is adjudicated or sanctions are issued will it show up on the licensing database.

Chairman Rhoad asked that if it was ethical for the AG's office to have both an advisory and prosecuting role for BOA consumer complaints. Mr. Schilling explained that the AG's advisory council is aware of the possible ethical conflicts, and they have internal measures in place for the advising DAG to avoid communication with the prosecuting DAG. They usually work in separate buildings. Allen Pope affirmed that the issue is taken very seriously in the AG's office. Mr. Rhoad asked if this possible ethical conflict has ever been brought up in a hearing with a licensee. Mr. Schilling explained that it has been brought up in judicial review, but the issues has never prevailed or affected a final judgment in a case. Apparently, many other states have separate advisory attorneys for their boards, but not Indiana.

Chairman Rhoad asked if it could be possible in the future for the AG's office to shift their prosecutorial focus and become particularly aggressive on certain cases over others. Mr. Schilling responded that by Indiana statute, it could be possible for the agency to shift their prosecutorial focus. Allen Pope, however, clarified that the scenario is highly unlikely. Statute requires that the AG's office investigate all complaints, so focusing more on one type of complaint would violate the AG's duty to the Supreme Court. Mr. Pope believes that speculation on this topic is pointless.

Chairman Rhoad wanted to discuss the expectations that licensees have about the fees that they pay for their licenses. Does it make sense for the license fees paid for a professional license be dedicated to the enforcement of that particular license? Currently, all \$15M in licensing fee revenue goes into the general fund, and PLA is issued \$4M annually. Timothy Reed mentioned that part of the real estate licensing fees go into a dedicated investigative fund, but generally speaking, different professions have different ways of handling enforcement. Therefore, funding of those enforcement measures are inconsistent. Mr. Rhoad proposed the scenario that if physician licensing fees make up 40% of PLA's revenue, would it be reasonable for them to expect that the enforcement of their licenses take up 40% of the PLA's attention? Mr. Pope responded that the AG's office is not concerned with the issue, since the PLA's funds are set by the General Assembly.

### **Report from the Indiana CPA Society**

Gary Bolinger, CAE, CEO, and President of the Indiana CPA Society presented a report that provided the following information:

- Assessment on the CPA/Accounting professions on the state's economy
- Recommendations for legislation about potential modification of CPA licensing
- Additional background on why the profession should be regulated
- Proposals for the committee's consideration
- Recommendations for administrative changes

Col Wilson asked if the CPA profession truly needs to be regulated by the state or if the CPA Society would be capable of handling it independently. Mr. Bolinger answered that yes, and there is a compelling reason in support of state regulation. The Enron scandal twelve years ago that enacted the Sarbanes-Oxley Act in 2002 could have been prevented by an outside audit. Federal statute requires an outside audit of the work done by licensed CPAs. The Indiana CPA Society supports regulatory structure in the state, but it would be possible to conduct it autonomously if needed.

Col Wilson asked if three years is an appropriate renewal rate for CPA licenses. Mr. Bolinger responded that with the velocity of change in the market and professional standards, it could be useful for renewals to occur every year. The three-year renewal rate was trending nationally, so Indiana followed.

Mr. Bolinger discussed that he believes that it would be beneficially to the professional if Continued Professional Education (CPE) was eliminated as a requirement for license renewal. He argued that it should be the firm's responsibility to keep their CPA's competent, and the state shouldn't bother with regulating it. Maintaining yearly CPEs is time consuming, it reduces a firm's efficiency, and it passes on extra costs to the clients. This regulatory structure exists to weed out the minimal number of "deadbeats" who will do the bare minimum to get by as a licensed CPA. Mr. Bolinger believes that the overwhelming majority of CPA firms will always do the right thing to keep their CPAs educated.

Col Wilson asked about the necessity of issuing firm permits if the individual CPA licenses are already heavily regulated. Mr. Bolinger responded that Enron is still a great example. A highly regarded accounting firm was put out of business by the Enron scandal partially due to a lack of impartial oversight. An individual does not issue an opinion on a business's finances, a firm does. The state should issue firm permits to reserve the right to discipline a firm if something goes wrong. Currently, the AG's office can go after an individual CPA or firm if there is a violation. Not all firms are corporations, so that is why the state needs to clarify the boundaries of a firm with a permit. Every state requires a firm permit.

Allen Pope asked if having more specialized CPA licenses would be friendlier to the business community. For example, the Cosmetology board could reduce the number of licenses they offer, but that would require barbers to learn how to paint toenails. Therefore, a wider variety of licenses makes it easy for professionals to get licensed in their specific trade. On the State Accountancy Board, accountants have different scopes of practice even though they have the same CPA licenses. Mr. Bolinger elaborated that CPAs are prohibited from engaging in any accounting activity that they are not qualified to complete. Mr. Pope asked if a special CPA license for specific scopes of practice would be helpful. Mr. Bolinger responded that specialized credentials already exist from other organizations to help narrow down a CPA's scope of practice. The marketplace is a strong force that takes care of most specialized accounting needs, and there is no need for the state to get involved in this as they will not be able to keep up the changing pace of the marketplace.

### **Concluding Discussion by the Committee**

Chairman Rhoad thanked the committee and attending staff. He believes that the committee is off to a strong start to continue the conversation in later meetings. He reiterated that the committee's purpose should be to ask hard questions about providing effective service and appropriate regulation as public servants.

Col Wilson suggested that it would be helpful to have presented material ahead of time, so committee members could have a chance to look it over. Col Wilson believes it could help the committee to be more efficient, and Chairman Rhoad agreed.

Chairman Rhoad also discussed that going forward the committee will meet every third Thursday of every month with the exception of November and December due to conflicts with state holidays.

### **Adjournment**

Chairman Rhoad adjourned the meeting at 12:35 PM.

**Job Creation Committee**  
**Next Scheduled Meeting:**

October 16, 2014

Indiana Government Center South  
Conference Room W064